He's Baaaaack!
The Return of Gerald Posner

By Jim DiEugenio

This past March, April and May, Gerald Posner did a mini-version rerun of what he had done in 1993. Five years ago, Posner wrote one of the most one-sided, monomaniacal books ever on the assassination of John F. Kennedy. *Case Closed* was given a huge publicity build-up and, when released, Posner was allotted more public appearances on major media outlets than any author in recent memory, save Seymour Hersh in 1997. In the meantime, Posner has become a regular name at publications like the *New York Times* and *Time* magazine. In the latter publication, early last year, the first announcements came that Posner was at work on a book on the King assassination. No surprise, it was timed to appear at the time of the thirtieth anniversary of King's murder. Although Posner did not get quite as big a launch this time as before, he still appeared with Dan Rather on *48 Hours* (3/24/98), and had a large spread in *Newsweek* (4/6/98). The latter was interesting in that it coupled an excerpt from Posner's book with rather unenthusiastic articles about King's legacy and the lives and characters of his children. The phenomenon that *Probe* detailed about the JFK assassination—a posthumous character attack to go with a cover-up about the original murder—was now transmuted and crystallized in the MLK case.

Killing the Dream is pretty much drawn from the same mold as *Case Closed*.

Posner shows the same type of "convict at any cost" attitude, the same quoting of clearly biased resources, the same use of character assassination on the supposed perpetrator, the same heavy-handed maneuvering of the evidence to rig the deck. For instance, in his public appearances, Posner's version of candor is admitting that certain government agencies had surveillance on King. Sending King a note with a thinly veiled threat to commit suicide or be sexually blackmailed—which is what the FBI did to King—qualifies as a bit more than intelligence surveillance. Yet, no commentator I listened to challenged Posner on this point. This included the supposedly liberal Marc Cooper of the Los Angeles Pacifica outlet, KPFK. Shockingly, or not, two of the featured voices on National Public Radio on the thirtieth anniversary of King's death were Posner and Robert Blakey.

How single-minded is single-minded? In an interview in the *San Jose Mercury News* (4/26/98), reporter Jeff Guinn asked Posner if Ray had actually killed King. Posner's answer was, to put it lightly, untouched with ambiguity: "There is no question. Ray was the shooter. That's how I see the evidence, how anybody objective has to see the evidence."

Such metaphysical certainty from a man who writes about scouring the Toronto Sun *newspaper for mentions of Ray in 1967 when that newspaper did not exist until 1971. Ditto for research Posner did at the so-called Canadian Bureau of Vital Statistics, which also is non-existent.*

Posner went on to use Robert Blakey's HSCA version of a motive, the Ray brothers were after a $50,000 bounty put up by a St. Louis racist. As Bill Pepper and others have noted it is odd that, if this was the motive, there exists no evidence to indicate that Ray or his brothers tried to collect the money. Another oddity here is that one of the people who Posner thanks in his book is none other than David Lifton. Back in 1977, Lifton, with Jeff Cohen, wrote an article for *New Times*. It (rather weakly) postulated Ray as a racist and his brother Jerry Ray as a co-conspirator in a rightwing plot. This article caught the eye of Blakey and the HSCA and Lifton's ideas ended up influencing the final product of their Final Report. Posner acknowledges that his debt to Lifton is a bit odd, but makes no more of it than that. We wonder what Lifton would think of another comment from that interview which is a pure Posnerism:

> The murders of Martin Luther King and John Kennedy did not do justice to the status of the victims. Many people want something meatier to lend extra weight to how they died. In each case, a conspiracy does that nicely. Look, the facts are that King and Kennedy were killed by sociopathic losers....There were no intricate assassination plots. None.

Such metaphysical certainty from a man who writes about scouring the *Toronto Sun* newspaper for mentions of Ray in 1967 when that newspaper did not exist until 1971. Ditto for research Posner did at the so-called Canadian Bureau of Vital Statistics, which also is non-existent.

No surprise, the symphony of praise also included the *New York Times* and the *Memphis Commercial Appeal*. The former review was written by Anthony Lewis, their liberal commentator who also praised the Warren Commission Report when it was first issued. The latter's review was penned by Marc Perrusquia who was that newspaper's point man on the effort by Bill Pepper to revive the King case. The praise for Posner extends through the major media to major political figures. In June of last year, Governor Frank Keating of Oklahoma praised Posner's earlier work on the JFK case as "masterful".

Masterful? Let us never forget the sworn affidavit of Roger McCarthy of Failure Analysis Associates. His company did work for the ABA when they did their mock trial of Oswald in San Francisco in 1992. McCarthy's firm provided experts and analysis for both the defense and prosecution. In his affidavit, McCarthy writes: "There was not a conclusion reached by FaAA as a company concerning the issues of the assassination. Each of our teams did its best within the factual, time, and resource constraints to assist the two eminent trial lawyer teams to resolve the key issues

continued on page 14

The Return of Gerald Posner

continued from page 13

for their respective sides." Significantly, he also added, "..there are gaps in the factual record that our analysis was unable to bridge." Finally, the affidavit concludes:

> Subsequent to our presentation one Gerald Posner contacted Dr. Robert Piziali, the leader of the prosecution team, and requested copies of the prosecution material, but not defense material, which we provided. Eventually Random House published a book by Mr. Posner entitled *Case Closed*. While Mr. Posner acknowledges in the book the material from Failure Analysis Associates he does not mention or acknowledge the ABA, or mention or acknowledge that there was additional material prepared by FaAA for the defense. Incredibly, Mr. Posner makes no mention of the fact that the mock jury that heard and saw the technical material that he believes is so persuasive and "closed" the case, but which also saw the FaAA material prepared for the defense, could not reach a verdict.
>
> In early televised interviews of Mr. Posner that were witnessed by FaAA staff, Mr. Posner made no attempt to correct any supposition by a questioner that the FaAA analytical work was performed at his request for him, and certainly left quite the opposite impression.

Another point, reviewers of Posner's recent whitewash do not mention is that in the earlier work, Posner used Professor David Wrone as an historian who is aghast at some of the more irresponsible efforts of the critical community. What Posner, nor any of his reviewers, add is that Wrone was also aghast at Posner's book when it originally came out. Wrone wrote a merciless review for *The Journal of Southern History* (Vol. 6 #1). In the first paragraph, Wrone stated,

> "...[Posner's] book is so theory driven, so rife with speculation, and so frequently unable to conform his text with the factual content in his sources that it stands as one of the stellar instances of irresponsible publishing on this subject."

He later added, "Massive numbers of factual errors suffuse the book, which make it a veritable minefield....Posner often presents the opposite of what the evidence says."

None of the reviewers mentioned another problem with *Case Closed*: the interview denials. Some of the people who Posner sources in his footnotes deny ever talking to him. For instance, when Peter Scott phoned Carlos Bringuier in New Orleans to confirm that he told Posner what Posner quoted him as saying, Bringuier said he didn't recall ever talking to the author. Gary Aguilar wrote a letter to the *Federal Bar News & Journal* noting this phenomenon (Vol. 41 #5):

> I called [James] Tague on April 30, 1994, and he told me....that he has never spoken with Posner, though the implication of three references in *Case Closed* is that Posner did speak with him on two successive days...."

Then there is the possibility that Posner may have deceived Congress. To quote Aguilar's letter again:

> On November 17, 1993 before the House Committee on Government Operations, Posner reported that he had interviewed two of Kennedy's pathologists, James Humes, M.D. and J. Thornton Boswell, M.D. Posner testified that they confirmed to him that they had changed their minds about the original location they had given for Kennedy's skull wound....Posner informed the U.S. Congress that the pathologists told him that they had erred [in their original autopsy report]—the [head]wound was 10 centimeters higher, at the top rear of the skull. On March 30, 1994, I called both Drs. Humes and Boswell. Both physicians told me that they had not changed their minds about Kennedy's wounds at all. They stood by their statements...which contradicted Posner. Startlingly, Dr. Boswell told me that he has never spoken with Posner.

The following is from the second page of an affidavit by Henry Burnell Clark, dated 9/12/67, discussing the presence of Oswald, Ferrie and Clay Shaw in Clinton, Louisiana in the Summer of 1963:

...During the same period of time in the summer of 1963, after the conclusion of the picketing demonstrations and during the attempted voting registration of the Negroes, I stepped out in front of the Stewart & Carroll Store and saw a man whom I noticed particularly because of his unusual hair.

It was bushy and stood up [in] all directions on his head like he had been out on a drunk all night. He walked up to the pay telephone on the street and stood there for a short while. I do not know whether he made a telephone call or not. From pictures shown to me this date I can state this man who went to the telephone booth was the man wearing over his chest the label NEW ORLEANS, LA 107062 with the numbers under it reading 2 16 62 [an arrest photo of David Ferrie] or it was his twin brother. I have marked with my signature the aforenumbered photograph as that of the man who walked past me in Clinton and stood by the public telephone that day.

Thus signed and executed of the own free will and volition and after a due reading of the whole by appearer on the date and place aforesaid:

/s/ Henry Burnell Clark

Sworn to and subscribed before me, notary on the 12th Day of September, 1967 at Clinton, Louisiana.

/s/ William F. Kline
Notary Public
East Feliciana Parish, Louisiana

As John Newman has noted, one of the most incredible things about Posner's book was its bombastic title. How could anyone write a book so pretentiously titled when the millions of documents sealed for decades were just about to be released? Couldn't there be just a few interesting morsels in there that could have *some* effect on the Warren Commission's conclusions? (Vincent Bugliosi's upcoming Oswald-did-it whitewash has a similar title, *Final Verdict*.) One notorious presumption made by Posner was the statement that Oswald did not know David Ferrie. This, of course, is a real problem for the Oswald-did-it crowd since it opens up a Pandora's box of weird associations for that supposed Marxist loner Oswald. It was a box Posner did not want to lift the top off of. Very shortly after the book's publication, Posner had to eat those words when PBS and *Frontline* produced a photo of the two in the Civil Air Patrol. The bumbling Posner had to recover some face, so he told another whopper. In response to a negative review of his book which used the photo, Posner replied that the picture could be a fake since two such photos secured by Jim Garrison depicting Oswald with Ferrie had proved to be fakes also. First of all, there is no evidence that Garrison ever had photos of Oswald and Ferrie in the CAP. Secondly, the photos which he *did* have appear to show Ferrie with Shaw, not Ferrie with Oswald. Third, no one has ever produced evidence to demonstrate that *those* particular photos are forgeries.

But Posner did not have to go photograph

hunting to know that what he had said about Ferrie and Oswald was false. He just had to go to New Orleans and talk to some of Ferrie's old CAP cadets. Or, he could have talked to some of the HSCA New Orleans investigators still living in New Orleans like L. J. Delsa and Bob Buras (see the accompanying excerpted document). They could have told him that the presumption was patently false. Or he could have just waited to publish his book in 1994 when some of the following documents were released. But then of course, the book would have appeared too late to dominate the broadcast waves on the thirtieth anniversary of JFK's murder. Which was probably the real point all along. What makes this above assertion quite tenable is that on March 28, 1998 the *New York Times* allowed the masterful Posner to write an editorial for the 30th anniversary of King's death. In it, Posner asked for the release of the government's King assassination files. Is Posner now an advocate of the free

As John Newman has noted, one of the most incredible things about Posner's book was its bombastic title. How could anyone write a book so pretentiously titled when the millions of documents sealed for decades were just about to be released?

flow of information? Does he really want to spend years going through millions of documents and cull out the wheat from the chaff? Does he wish to vigorously challenge the official version of some of our history? Of course not. After saying that the JFK Act of 1992 has released plenty of pages of new files, Posner's *New York Times* column continued:

> While nothing has contradicted the original Warren Commission finding that Lee Harvey Oswald was the sole gunman, the files have filled in many details for historians and eliminated much of the suspicion that the government was hiding something nefarious.

Are we to conclude that Posner has read the 4 million pages now declassified at the National Archives? From the record adduced above, could we trust him if he had read them? But further, since publishing *Case Closed* in 1993, Posner has written two other non-fiction books. Besides the King book, he did a biography of Ross Perot timed for the 1996 election. Assuming he worked on the Perot book at least through 1995 and 1996, and the King book in 1997 and early 1998, just when did he have the time to go through the millions of newly declassified pages? I think we all know the answer to that question. Unfortunately, so does the *New York Times*. ⌖